



**REPORT OF THE AUDITOR OF PUBLIC ACCOUNTS
AUDIT EXAMINATION OF THE
FORMER BREATHITT COUNTY
SHERIFF'S SETTLEMENT - 1997 TAXES,
FORMER SHERIFF'S SETTLEMENT - 1996 UNMINED COAL TAXES,
AND
FORMER SHERIFF'S SETTLEMENT - 1997 UNMINED COAL TAXES**

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Edward B. Hatchett, Jr. Auditor of Public Accounts

To the People of Kentucky

Honorable Paul E. Patton, Governor

John P. McCarty, Secretary

Finance and Administration Cabinet

Sarah Jane Schaaf, Secretary, Revenue Cabinet

Honorable Robert Cornett, County Judge/Executive

Honorable John L. Turner, Breathitt County Sheriff

Honorable Jack T. Brown, Former Breathitt County Sheriff

Members of the Breathitt County Fiscal Court

Independent Auditor's Report

We have audited the former Breathitt County Sheriff's Settlement - 1997 Taxes as of August 27, 1998, former Sheriff's Settlement - 1996 Unmined Coal Taxes as of November 13, 1997, and former Sheriff's Settlement - 1997 Unmined Coal Taxes as of August 27, 1998. These tax settlements are the responsibility of the former Breathitt County Sheriff. Our responsibility is to express an opinion on the financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards, Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for Sheriff's Tax Settlements issued by the Auditor of Public Accounts, Commonwealth of Kentucky. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

The former Sheriff prepared his financial statements on a prescribed basis of accounting that demonstrates compliance with the cash basis and laws of Kentucky, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the former Breathitt County Sheriff's taxes charged, credited, and paid as of August 27, 1998 and November 13, 1997, in conformity with the basis of accounting described in the preceding paragraph.

Our audit was made for the purpose of forming an opinion on the financial statements taken as a whole. The schedule listed in the table of contents is presented for purposes of additional analysis and is not a required part of the financial statements. Such information has been subjected to auditing procedures applied in the audit of the financial statements and, in our opinion, is fairly presented in all material respects in relation to the financial statements taken as a whole.

To the People of Kentucky
Honorable Paul E. Patton, Governor
John P. McCarty, Secretary
Finance and Administration Cabinet
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Honorable John L. Turner, Breathitt County Sheriff
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Based on the results of our audit, we have presented a schedule of Comments and Recommendations, included herein, which discusses the following areas of noncompliance:

- Former Sheriff Jack T. Brown Should Have Had A Written Agreement To Protect Deposits
- Former Sheriff Jack T. Brown Should Refund Franchise Taxpayers For Over-Charges

In accordance with Government Auditing Standards, we have also issued a report dated May 20, 1999, on our consideration of the former Sheriff's compliance with certain laws and regulations and internal control over financial reporting.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ed Hatchett", with a long horizontal flourish extending to the right.

Edward B. Hatchett, Jr.
Auditor of Public Accounts

Audit fieldwork completed -
May 20, 1999

BREATHITT COUNTY
JACK T. BROWN, FORMER SHERIFF
SHERIFF'S SETTLEMENT - 1997 TAXES

August 27, 1998

<u>Charges</u>	<u>County Taxes</u>	<u>Special Taxing Districts</u>	<u>School Taxes</u>	<u>State Taxes</u>
Real Estate	\$ 204,320	\$ 286,048	\$ 672,895	\$ 278,941
Tangible Personal Property	47,736	57,283	153,822	147,475
Intangible Personal Property				20,277
Fire Protection	4,903			
Franchise Corporation	61,747	50,047	122,468	
Omitted Taxes	7	9	24	9
Increased Through Erroneous Assessments	26	37	97	1,867
Penalties	2,997	4,121	9,842	4,051
Adjusted to Sheriff's Receipt	<u>(68)</u>	<u>11</u>		<u>(1)</u>
Gross Chargeable to Sheriff	<u>\$ 321,668</u>	<u>\$ 397,556</u>	<u>\$ 959,148</u>	<u>\$ 452,619</u>
<u>Credits</u>				
Discounts	\$ 3,321	\$ 4,080	\$ 9,771	\$ 6,107
Exonerations	8,667	12,133	30,389	11,555
Delinquents:				
Real Estate	16,027	22,132	51,834	21,582
Tangible Personal Property	108	130	379	249
Intangible Personal Property				35
Uncollected Franchise	<u>6,650</u>	<u>7,980</u>	<u>19,436</u>	
Total Credits	<u>\$ 34,773</u>	<u>\$ 46,455</u>	<u>\$ 111,809</u>	<u>\$ 39,528</u>
Net Tax Yield	\$ 286,895	\$ 351,101	\$ 847,339	\$ 413,091
Less: Commissions *	<u>12,481</u>	<u>14,922</u>	<u>33,894</u>	<u>17,844</u>
Net Taxes Due	\$ 274,414	\$ 336,179	\$ 813,445	\$ 395,247
Taxes Paid	278,237	341,490	813,587	395,027
Refunded From Districts		23	56	58
Refunds (Current and Prior Year)				<u>(278)</u>
(Refunds Due Sheriff)		**		
as of Completion of Fieldwork	<u>\$ (3,823)</u>	<u>\$ (5,287)</u>	<u>\$ (86)</u>	<u>\$ 0</u>

* and ** See Page 4

BREATHITT COUNTY
JACK T. BROWN, FORMER SHERIFF
SHERIFF'S SETTLEMENT - 1997 TAXES
August 27, 1998
(Continued)

* Commissions:

10% on	\$	10,000
4.25% on	\$	1,041,087
4% on	\$	847,339

** Special Taxing Districts:

Library District	\$	(3,347)
Health District		(722)
Extension District		<u>(1,218)</u>

(Refunds Due Sheriff)	\$	<u><u>(5,287)</u></u>
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The accompanying notes are an integral part of the financial statements.

BREATHITT COUNTY
JACK T. BROWN, FORMER SHERIFF
SHERIFF'S SETTLEMENT - 1996 UNMINED COAL TAXES

November 13, 1997

<u>Charges</u>	<u>County Taxes</u>	<u>Special Taxing Districts</u>	<u>School Taxes</u>	<u>State Taxes</u>
Sheriff's Official Receipt for				
Unmined Coal	\$ 13,253	\$ 18,554	\$ 48,402	\$ 18,785
Penalties	<u>2</u>	<u>3</u>	<u>8</u>	<u>3</u>
Gross Chargeable to Sheriff	<u>\$ 13,255</u>	<u>\$ 18,557</u>	<u>\$ 48,410</u>	<u>\$ 18,788</u>
<u>Credits</u>				
Discounts	\$ 155	\$ 217	\$ 566	\$ 219
Delinquents	<u>4,127</u>	<u>5,778</u>	<u>15,074</u>	<u>5,850</u>
Total Credits	<u>\$ 4,282</u>	<u>\$ 5,995</u>	<u>\$ 15,640</u>	<u>\$ 6,069</u>
Net Tax Yield	\$ 8,973	\$ 12,562	\$ 32,769	\$ 12,719
Less: Commissions *	<u>381</u>	<u>534</u>	<u>1,311</u>	<u>541</u>
Net Taxes Due	\$ 8,592	\$ 12,028	\$ 31,459	\$ 12,178
Taxes Paid	<u>8,592</u>	<u>12,028</u>	<u>31,459</u>	<u>12,178</u>
Due Districts				
as of Completion of Fieldwork	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>

* Commissions:

 4.25% on \$ 34,254

 4% on \$ 32,769

The accompanying notes are an integral part of the financial statements.

BREATHITT COUNTY
 JACK T. BROWN, FORMER SHERIFF
SHERIFF'S SETTLEMENT - 1997 UNMINED COAL TAXES

August 27, 1998

<u>Charges</u>	<u>County Taxes</u>	<u>Special Taxing Districts</u>	<u>School Taxes</u>	<u>State Taxes</u>
Sheriff's Official Receipt for Unmined Coal	\$ 20,901	\$ 29,261	\$ 76,334	\$ 28,534
Omitted Taxes	13,179	17,718	44,601	22,722
Penalties	3,923	5,242	13,099	6,458
Gross Chargeable to Sheriff	<u>\$ 38,003</u>	<u>\$ 52,221</u>	<u>\$ 134,034</u>	<u>\$ 57,714</u>
<u>Credits</u>				
Discounts	\$ 274	\$ 383	\$ 1,000	\$ 374
Exonerations	2,388	3,270	8,373	4,187
Delinquents	2,744	3,650	9,014	4,446
Total Credits	<u>\$ 5,406</u>	<u>\$ 7,303</u>	<u>\$ 18,387</u>	<u>\$ 9,007</u>
Net Tax Yield	\$ 32,597	\$ 44,918	\$ 115,647	\$ 48,707
Less: Commissions *	<u>1,385</u>	<u>1,909</u>	<u>4,626</u>	<u>2,070</u>
Net Taxes Due	\$ 31,212	\$ 43,009	\$ 111,021	\$ 46,637
Taxes Paid	<u>31,212</u>	<u>43,009</u>	<u>110,998</u>	<u>46,632</u>
Due Districts as of Completion of Fieldwork	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 23</u>	<u>\$ 5</u>

* Commissions:

4.25% on \$ 126,222

4% on \$ 115,647

The accompanying notes are an integral part of the financial statements.

BREATHITT COUNTY
NOTES TO THE FINANCIAL STATEMENTS

August 27, 1998

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

The Sheriff's tax collection duties are limited to acting as an agent for assessed property owners and taxing districts. A fund is used to account for the collection and distribution of taxes. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

B. Basis of Accounting

The financial statements have been prepared on a cash basis of accounting. Basis of accounting refers to when charges, credits, and taxes paid are reported in the settlement statement. It relates to the timing of measurements regardless of the measurement focus.

Charges are sources of revenue which are recognized in the tax period in which they become available and measurable. Credits are reductions of revenue which are recognized when there is proper authorization. Taxes paid are uses of revenue which are recognized when distributions are made to the taxing districts and others.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

Note 2. Deposits

The former Sheriff maintained deposits with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC). According to law, the depository institution should pledge sufficient securities as collateral which, together with FDIC insurance, equals or exceeds the amount on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge of securities should be evidenced by an agreement that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution. This agreement, signed by both parties, must be sufficient to create an enforceable and perfected security interest in the collateral under Kentucky law. The depository institution has made such a pledge, and the depository institution's board of directors or loan committee approved the pledge. However, the depository institution did not have a written agreement with the former Sheriff.

BREATHITT COUNTY
NOTES TO THE FINANCIAL STATEMENTS
August 27, 1998
(Continued)

Note 4. Property Taxes

The real and personal property tax assessments were levied as of January 1, 1997. Property taxes were billed to finance governmental services for the year ended June 30, 1998. Liens are effective when the tax bills become delinquent. The collection period for these assessments was October 27, 1997 through August 27, 1998.

1996 Unmined Coal Taxes

The tangible property tax assessments were levied as of January 1, 1996. Property taxes are billed to finance governmental services. Liens are effective when the tax bills become delinquent. The collection period for these assessments was May 28, 1997 through November 13, 1997.

1997 Unmined Coal Taxes

The tangible property tax assessments were levied as of January 1, 1997. Property taxes are billed to finance governmental services. Liens are effective when the tax bills become delinquent. The collection period for these assessments was December 1, 1997 through August 27, 1998.

Note 5. Interest Income

The former Breathitt County Sheriff earned \$2,534 as interest income on 1997 taxes. The former Sheriff distributed the appropriate amount to the school district as required by statute, and the remainder will be used to operate the former Sheriff's office.

BREATHITT COUNTY
 JACK T. BROWN, FORMER SHERIFF
SCHEDULE OF EXCESS OF LIABILITIES OVER ASSETS

As of August 27, 1998

Assets

Cash in Bank (All Tax Accounts)		\$	20,681
Deposits in Transit			255
Receivables:			
Interest Overpaid Fee Account	\$	39	
County		3,823	
School		86	
Library		3,347	
Health		722	
Extension		1,218	9,235
			<hr/>
Total Assets		\$	<hr/> 30,171 <hr/>

Liabilities

Paid Obligations-			
Outstanding Checks	\$	20,713	
Unpaid Obligations-			
Commissions Due Fee Account	\$	417	
Additional Tax Due School 1997 Unmined Coal		23	
Interest Due School		56	
Refunds Due Taxpayers-			
Overbilled Franchise Taxes		9,446	9,942
			<hr/>
Total Liabilities		\$	<hr/> 30,655 <hr/>
Total Fund Deficit as of August 27, 1998		\$	<hr/> (484) <hr/>

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COMMENTS AND RECOMMENDATIONS

BREATHITT COUNTY
JACK T. BROWN, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS

August 27, 1998

STATE LAWS AND REGULATIONS:

1) Former Sheriff Jack T. Brown Should Have Had A Written Agreement To Protect Deposits

The former Sheriff maintained deposits with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC). The former Sheriff had a bank balance of \$1,179,342; FDIC insurance of \$100,000; and securities pledged of \$1,500,000 as of December 10, 1997. Even though the former Sheriff obtained pledged securities of \$1,000,000, the pledge was not evidenced by a written agreement. We recommend the Sheriff's office enter into a written agreement with the depository institution. This agreement, signed by both parties, must be sufficient to create an enforceable and perfected security interest in the collateral under Kentucky law. According to federal law, 12 U.S.C.A. § 1823(e), this agreement should be (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Management's Response:

We were not aware this was a requirement. I feel we should have been made aware of this in advance.

2) Former Sheriff Jack T. Brown Should Refund Franchise Taxpayers For Over-Charges

During the audit we found that the county clerk used the incorrect tax rates on the 1997 franchise tax bills. This error resulted in over charges of \$9,446. We recommend the sheriff's office collect the overpayments of franchise taxes from each taxing district, and refund the individual franchise taxpayers. We also recommend the county clerk accurately prepare each franchise tax bill.

Management's Response:

I will not collect these refunds. I have made arrangements with Tony Watts, County Clerk, to make sure these are given credit to taxpayers on the next year's franchise bills.

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REPORT ON COMPLIANCE
AND ON INTERNAL CONTROL OVER FINANCIAL
REPORTING BASED ON AN AUDIT OF THE FINANCIAL STATEMENT
PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



Edward B. Hatchett, Jr. Auditor of Public Accounts

Honorable Robert Cornett, County Judge/Executive
Honorable John L. Turner, Breathitt County Sheriff
Honorable Jack T. Brown, Former Breathitt County Sheriff
Members of the Breathitt County Fiscal Court

Report On Compliance And On Internal Control Over Financial Reporting Based On An Audit Of The Financial Statement Performed In Accordance With Government Auditing Standards

We have audited the former Breathitt County Sheriff's Settlement - 1997 Taxes as of August 27, 1998, Sheriff's Settlement - 1996 Unmined Coal Taxes as of November 13, 1997, and Sheriff's Settlement - 1997 Unmined Coal Taxes as of August 27, 1998. We have issued our report thereon dated May 20, 1999. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under Government Auditing Standards.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the former Breathitt County Sheriff's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses.

Honorable Robert Cornett, County Judge/Executive
Honorable John L. Turner, Breathitt County Sheriff
Honorable Jack T. Brown, Former Breathitt County Sheriff
Members of the Breathitt County Fiscal Court
Report On Compliance And On Internal Control
Over Financial Reporting Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

This report is intended for the information of management. However, this report, upon release by the Auditor of Public Accounts, is a matter of public record and its distribution is not limited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ed Hatchett", with a long horizontal flourish extending to the right.

Edward B. Hatchett, Jr.
Auditor of Public Accounts

Audit fieldwork completed -
May 20, 1999

